

§ 1450.6

29 CFR Ch. XII (7-1-09 Edition)

§ 1450.6 Informal action.

Nothing contained in this regulation is intended to preclude utilization of informal administrative actions or remedies which may be available.

§ 1450.7 Return of property.

Nothing contained in this regulation is intended to deter FMCS from demanding the return of specific property or from demanding, the return of the property or the payment of its value.

§ 1450.8 Omissions not a defense.

The failure of FMCS to comply with any provision in this regulation shall not serve as a defense to the debt.

Subpart B—Administrative Offset— Consumer Reporting Agen- cies—Contracting for Collec- tion

§ 1450.9 Demand for payment.

Prior to making an administrative offset, demand for payment will be made as stated below:

(a) Written demands shall be made promptly upon a debtor in terms which inform the debtor of the consequences of failure to cooperate. A total of three progressively stronger written demands at not more than 30-day intervals will normally be made unless a response to the first or second demand indicates that a further demand would be futile and the debtor's response does not require rebuttal. In determining the timing of demand letters, FMCS will give due regard to the need to act promptly so that, as a general rule, if necessary to refer the debt to the Department of Justice for litigation, such referral can be made within one year of the agency's final determination of the fact and the amount of the debt. When necessary to protect the Government's interest (for example, to prevent the statute of limitations, 28 U.S.C. 2415, from expiring), written demand may be preceded by other appropriate actions under this subpart including immediate referral for litigation.

(b) The initial demand letter will inform the debtor of:

(1) The basis for the indebtedness and the right of the debtor to request review within the agency;

(2) The applicable standards for assessing interest, penalties, and administrative costs (subpart D of this regulation) and

(3) The date by which payment is to be made, which normally should be not more than 30 days from the date that the initial demand letter was mailed or hand-delivered. FMCS will exercise care to insure that demand letters are mailed or hand-delivered on the same day that they are actually dated. Apart from this, there is no prescribed format for the demand letters.

(c) As appropriate to the circumstances, FMCS may include either in the initial demand letter or in subsequent letters, matters relating to alternative methods of payment, policies with respect to use of consumer reporting agencies and collection services, the agency's intentions with respect to referral of the debt to the Department of Justice for litigation, and, depending on applicable statutory authority, the debtor's entitlement to consideration of waiver.

(d) FMCS will respond promptly to communications from the debtor, within 30 days whenever feasible, and will advise debtor who dispute the debt that they must furnish available evidence to support their contentions.

(e) If, either prior to the initiations of, at any time during, or after completion of the demand cycle, FMCS determines to pursue administrative offset, then the requirements specified in §§1450.10 and 1450.11, as applicable, will be met. The availability of funds for offset and the agency determination to pursue it release the agency from the necessity of further compliance with paragraphs (a), (b), and (c) of this section. If the agency has not already sent the first demand letter, the agency's written notification of its intent to offset must give the debtor the opportunity to make voluntary payment, a requirement which will be satisfied by compliance with the notice requirements of §§1450.10 and 1450.11 as applicable.

§ 1450.10 Collection by administrative offset.

(a) Collection by administrative offset will be undertaken in accordance with these regulations on all claims